IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.173 OF 2007

Subhash Ananda Sutar. ...Petitioner.

Versus

1.The State of Maharashtra, &
2.Rajendra Ghosh. ...Respondents.

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Mr.R.D.Suryawanshi, Adv. for the Petitioner.
Mr.S.S.Pednekar, APP, for the State.
Mr.Amardev J. Uniyal, Adv. for Respondent No.2.

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CORAM : SMT.V.K.TAHILRAMANI,J.

DATED : 4th May, 2007.

P.C.:

1. Heard the learned Advocate for the applicant-orig.accused, the learned Advocate for respondent No.2-orig.complainant and the learned APP for the State.

2. By judgment and order dated 4th April, 2005, the petitioner-orig.accused has been convicted for the offence punishable under Section 138 of N.I.Act by the learned M.M., 31st Court, Vikroli, Mumbai in Criminal Case No.81/SS/2005.

By the said judgment and order, the petitioner was sentenced to S.I. for one year and also to pay fine of Rs.5000/-, in default S.I. for three months. The petitioner was further directed to pay the complainant Rs.1,00,000/- by way of compensation.

3. Being aggrieved by the said judgment and order the petitioner preferred Criminal Appeal No.431 of 2006 before the Sessions Court. The said Appeal came to be partly allowed by judgment and order dated 7th April, 2007. The conviction under Section 138 of N.I.Act was maintained. However, the sentence of imprisonment of one year was reduced to SI for three months. Being aggrieved by the said judgment and order, this Revision has been preferred.

4. It is stated that out of the sentence of three months, the petitioner has already undergone one third of sentence of imprisonment. It is further stated that, the petitioner has already deposited Rs.25,000/- in the trial Court and another Rs.25,000/- has been deposited in this Court. Thus, total amount of Rs.50,000/- has

already been deposited by the petitioner.

5. During pendency of the Revision, a settlement has been arrived at between the parties. Mr.Suryawanshi, the learned Advocate for the petitioner states that within a period of one month from today, another Rs.15,000/- will be deposited by the petitioner in this Court.

6. The learned Advocate for respondent No.2-orig.complainant states that if the complainant is allowed to withdraw an amount of Rs.50,000/- already deposited by the petitioner, as stated above, and further amount of Rs.15,000/- which will be deposited by the petitioner in this Court within a period of one month from today, and in addition to this if the petitioner hands over to him Rs.60,000/-, the respondent No.2-orig.complainant does not wish to continue with the prosecution and he is amenable to the quashing of the said prosecution.

7. Mr.Suryawanshi, states that the remaining amount of Rs.60,000/- will be given by the petitioner directly to respondent

No.2-orig.complainant by Demand Draft by way of six equal monthly instalments of Rs.10,000/-, which will start from July, 2007 onwards. The instalments will be paid on or before 10th of each month.

8. In view of the above, respondent No.2-orig.complainant is permitted to withdraw amount of Rs.50,000/- which has already been deposited by the petitioner i.e. Rs.25,000/- in the trial Court and Rs.25,000/- in this Court; in addition thereto after a period of one month the orig.complainant is permitted to withdraw an amount of Rs.15,000/- which will be deposited by the petitioner. The petitioner to hand over Rs.60,000/- directly to respondent No.2-orig.complainant by Demand Draft by way of six equal monthly instalments of Rs.10,000/-, which will start from July, 2007 onwards. The instalments shall be paid on or before 10th of each month. The fine amount of Rs.5000/- as imposed by the learned Magistrate, if not deposited, the petitioner to deposit the same before the trial Court.

9. In view of this, the proceedings against the petitioner are quashed and he is acquitted therein. Bail bonds of the petitioner shall stand cancelled.

10. However, it is made clear that if there is any default on the part of the petitioner in either depositing the initial amount of Rs.15,000/- before this Court or directly paying to the orig.complainant the six equal monthly instalments of Rs.10,000/- each by way of Demand Draft, this order shall stand automatically vacated and the Revision shall stand automatically revived.

11. Criminal Revision Application is disposed of accordingly.

(SMT.V.K.TAHILRAMANI,J.)